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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2008–0009]

[T.D. TTB–97; Re: Notice Nos. 90 and 91]

RIN: 1513–AB57

Expansions of the Russian River Valley and Northern Sonoma Viticultural Areas

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision expands the Russian River Valley viticultural area in Sonoma County, California, by 14,044 acres, and the Northern Sonoma viticultural area in Sonoma County, California, by 44,244 acres. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, VA 24014; telephone 202–4453–1039, ext. 275.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality,

reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area.

Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.12 of the TTB regulations prescribes standards for petitions for the establishment or modification of American viticultural areas.

Such petitions must include the following:

- Evidence that the area within the viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the viticultural area;
- A narrative description of the features of the viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make it distinctive and distinguish it from adjacent areas outside the viticultural area boundary;

- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the viticultural area, with the boundary of the viticultural area clearly drawn thereon; and
- A detailed narrative description of the viticultural area boundary based on USGS map markings.

Publication of Notice No. 90

On August 20, 2008, TTB published Notice No. 90, a notice of proposed rulemaking, in the **Federal Register** (73 FR 49123) regarding the proposed expansion of the Russian River Valley viticultural area (27 CFR 9.66) in Sonoma County, California. TTB undertook that action in response to a petition filed by Gallo Family Vineyards, which owns a vineyard near the southern end of the proposed expansion area. As discussed below, TTB also proposed in Notice No. 90 to expand the existing Northern Sonoma viticultural area (27 CFR 9.70) to encompass all of the Russian River Valley viticultural area, including its proposed expansion area.

Specifically, the petition proposed a 14,044-acre expansion of the Russian River Valley viticultural area, which would increase the existing viticultural area's acreage by approximately 9 percent, to 169,028 acres. The petitioner explained that approximately 550 acres of the proposed expansion area were planted to grapes at the time of the petition. The petitioner's Two Rock Ranch Vineyard, with 350 acres planted to grapes, lies near the southern end of the proposed expansion area.

The Russian River Valley viticultural area is located approximately 50 miles north of San Francisco in central Sonoma County, California. The viticultural area was originally established by Treasury Decision (T.D.) ATF–159, published in the **Federal Register** (48 FR 48812) on October 21, 1983. It was expanded by 767 acres in T.D. TTB–7, published in the **Federal Register** (68 FR 67367) on December 2, 2003, and again by 30,200 acres in T.D. TTB–32, published in the **Federal Register** (70 FR 53297) on September 8, 2005. Although T.D. TTB–32 states that the viticultural area covered 126,600 acres after the 2005 expansion, the current petition provides information updating the present size of the viticultural area to a total of 154,984 acres.

The current Russian River Valley viticultural area, with the exception of its southern tip, lies within the Northern Sonoma viticultural area. The Northern Sonoma viticultural area, in turn, lies largely within the Sonoma Coast viticultural area (27 CFR 9.116). The Northern Sonoma and Sonoma Coast viticultural areas are both entirely within the North Coast viticultural area (27 CFR 9.30).

The current Russian River Valley viticultural area also entirely encompasses two smaller viticultural areas—in its northeastern corner, the Chalk Hill viticultural area (27 CFR 9.52), and in the southwest, the Green Valley of Russian River Valley viticultural area (27 CFR 9.57).

According to the petition, the proposed expansion would extend the current viticultural area boundary south and east, encompassing land just west of the cities of Rohnert Park and Cotati. The proposed expansion area lies within the Sonoma Coast and North Coast viticultural areas, but not within the Northern

Sonoma viticultural area. According to the petition, the proposed expansion area lies almost entirely within the Russian River Valley watershed, is historically part of the Russian River Valley, and shares all of the significant distinguishing features of the Russian River Valley viticultural area. The evidence submitted in support of the proposed expansion is summarized below.

Name Evidence

The petition states that the proposed expansion area is widely recognized as part of the Russian River watershed, a key criterion cited in past rulemaking documents regarding the existing Russian River Valley viticultural area. T.D. ATF-159 states that the Russian River Valley viticultural area “includes those areas through which flow the Russian River or some of its tributaries * * *.” Moreover, the petition contends that before the establishment of the current viticultural area boundary, the proposed expansion area was commonly considered part of the Russian River Valley.

The petitioner included several pieces of evidence showing the expansion area’s inclusion in the Russian River watershed. A submitted map shows that almost all of the proposed expansion area lies within the Russian River watershed (see “The California Interagency Watershed Map of 1999,” published by the California Resources Agency, updated 2004). The petition notes that the water drainage is through the Laguna de Santa Rosa waterway beginning near the east side of the proposed expansion area and flowing west and north through the current viticultural area. Thus, the waterway provides a common connection between the two areas.

The petitioner also included an informational brochure published by the Russian River Watershed Association (RRWA), an association of local governments and districts that coordinates regional programs to protect or improve the quality of the Russian River watershed. A map in the brochure shows that the watershed includes both the current viticultural area and the area covered by the proposed expansion.

The petitioner submitted a letter from the RRWA that asks the California Department of Transportation to place a sign marking the southern boundary of the Russian River watershed at a point on northbound Highway 101 near the City of Cotati in Sonoma County, California. This point is on the southeastern portion of the boundary of the proposed expansion area. The petition notes that the State installed both the requested sign as well as an additional sign at another point on the southern portion of the boundary of the proposed expansion area.

Also submitted with the petition were 2002 water assessment data published by the U.S. Environmental Protection Agency. This information includes the expansion area in its assessment of the Russian River watershed. Finally, the petitioner included a Russian River Valley area tourism map that encompasses the proposed expansion area (see "Russian River Map," (<http://russianrivertravel.com/>)).

Several documents relating to the agricultural and economic history of Sonoma County were also submitted by the petitioner. The petition states that these documents illustrate a shared history of grape growing in the proposed expansion area and the current viticultural area. For example, an 1893 survey

compares the yields of individual grape growers in the current viticultural area with those of growers in the proposed expansion area (see “History of the Sonoma Viticultural District,” by Ernest P. Peninou, Nomis Press, 1998). The petition asserts that this document clearly shows that growers in the two areas grew similar grape varieties under similar growing conditions with similar yields.

A letter from Robert Theiller submitted with the petition describes the family-owned Xavier Theiller Winery. The winery, now defunct, operated in the proposed expansion area from 1904 to 1938. According to Mr. Theiller, the defunct winery crushed grapes from both the area encompassed by the current Russian River Valley viticultural area and the area covered by the proposed expansion. The letter specifically states that “* * * people involved in grape growing and other agriculture in the area of the winery knew that [the proposed expansion area] was part of the Russian River Valley.”

The petition also includes a letter from wine historian William F. Heintz. Mr. Heintz is the author of “Wine and Viticulture History of the Region Known as the Russian River Appellation” (Russian River Valley Winegrowers, 1999). In his letter, Mr. Heintz writes:

I agree with the observation in your petition that the proposed expansion area and the main part of the Russian River Valley viticultural area, which lies to the north, have historically been part of one region in terms of common climate and geographic features, settlement, and the development of agriculture and transportation. For these reasons, I have always considered the proposed expansion area and the area to the north that is in the current Russian River Valley viticultural area to belong together. In my opinion, the proposed expansion area is part of the same historical district as the existing Russian River Valley viticultural area.

Boundary Evidence

According to the petition, the 2005 expansion created an artificial line for what became the southeast portion of the boundary. Proceeding south down the US 101 corridor, it abruptly turns due west at Todd Road. Consequently, on a map, the Russian River Valley viticultural area appears to have had a “bite” taken out of its southeastern corner, despite the fact that it and the proposed expansion area share common features of climate, soil, and watershed.

The proposed expansion would change the southeastern portion of the boundary of the current Russian River Valley viticultural area. At a point where the current southern portion of the boundary now ends and the boundary line abruptly turns north, the proposed new boundary line would generally continue to follow the defining ridge on the southern flank of the Russian River watershed. It would turn north at US 101, eventually meeting the southeast corner of the existing boundary, adding an area almost entirely within the Russian River watershed.

Distinguishing Features

Climate

Past rulemakings regarding the Russian River Valley viticultural area have stated that coastal fog greatly affects the area’s climate. T.D. TTB–32 at 70 FR 53298 states, for example, that “Fog is the single most unifying and significant feature of the previously established Russian River Valley viticultural area.” The petition states that the proposed expansion area lies directly in the path of the fog that moves from the ocean into southern and central Sonoma County; thus, the

same fog influences both the proposed expansion area and the current viticultural area. Consequently, there is no “fog line” dividing the current viticultural area and the proposed expansion area, according to the petition.

The petitioner provided a report showing the effect of the fog on the climate of the current viticultural area and the proposed expansion area (see “Sonoma County Climatic Zones,” Paul Vossen, University of California Cooperative Extension Service, Sonoma County, 1986 (<http://cesonoma.ucdavis.edu/>)). The report describes the fog as passing through the Petaluma Gap and into the expansion area, as follows:

The major climatic influence in Sonoma County is determined by the marine (ocean) air flow and the effect of the geography diverting that air flow. During an average summer there are many days when fog maintains a band of cold air all around the coastline and cool breezes blow a fog bank in through the Petaluma Gap northward toward Santa Rosa and northwestward toward Sebastopol. This fog bank is accompanied by a rapid decrease in temperature which can be as much as 50° F.

Additionally, the petitioner provided an online article delineating the presence of fog in the proposed expansion area (“Fog Noir,” by Rod Smith, September/October 2005 at http://www.privateclubs.com/Archives/2005-sept-oct/wine_fog-noir.htm). The article describes satellite images of fog moving through the Russian River Valley, as follows:

Until recently everyone assumed that the Russian River itself drew the fog inland and distributed it over the terrain west of Santa Rosa. Supplemental fog, it was thought, also came in from the southwest over the marshy lowlands along the coast between Point Reyes and Bodega Bay—the so-called Petaluma Wind Gap.

In fact, it now appears to be the other way around. A new generation of satellite photography, sensitive enough to pick up translucent layers of moist air near the ground, shows for the first

time the movement of the fog throughout the Russian River Valley region.

* * * * *

In Bobbitt's snapshot, the fog pours, literally pours, through the Petaluma Gap. The ocean dumps it ashore and the inland heat sink reels it in * * *.

According to the petition, the proposed expansion area also has the same "coastal cool" climate as the current Russian River Valley viticultural area. T.D. ATF-159, T.D. TTB-7, and T.D. TTB-32 refer to the Winkler degree-day system, which classifies climatic regions for grape growing. In the Winkler system, heat accumulation is measured during the typical grape-growing season from April to October. One degree day accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth (see "General Viticulture," Albert J. Winkler, University of California Press, 1974). As noted in T.D. ATF-159, the Russian River Valley viticultural area is termed "coastal cool" and has an annual range from 2,000 to 2,800 degree days.

The petition concedes that the "Sonoma County Climate Zones" report cited above would place most of the proposed expansion area and part of the 2005 expansion area within the "marine" zone, instead of the warmer coastal cool zone. However, the petition argues that, at the time of the 2005 expansion, TTB recognized that more current information had superseded the information in the 1986 report. Further, it is asserted in the petition that the climate information included in the exhibits shows that the proposed expansion area actually has a coastal cool climate.

Using the Winkler system, the petitioner provided a table that includes a complete degree day data set for the April through October growing season at seven vineyards, including the petitioner's Two Rock Ranch Vineyard, which is located in the southern part of the proposed expansion area, and the petitioner's Laguna Ranch and MacMurray Ranch Vineyards, both of which are located in the Russian River Valley viticultural area as established in 1983. For the petitioner's vineyards, the data are an average of the degree days for the three year period of 1996–1998; for vineyards that were added to the Russian River Valley viticultural area as part of the 2005 expansion, the data are the same 2001 data used by TTB in establishing the 2005 expansion in T.D. TTB–32. The table is reproduced below.

Vineyard	Annual Degree Days	Location
Osley West	2,084	2005 expansion
Two Rock Ranch	2,227	Proposed expansion
Bloomfield	2,332	2005 expansion
Laguna Ranch	2,403	1983 establishment
Osley East	2,567	2005 expansion
MacMurray Ranch	2,601	1983 establishment
Le Carrefour	2,636	2005 expansion

The petition states that the table shows that all seven vineyards, including the Two Rock Ranch in the proposed expansion area, fall within the coastal cool climate range of 2,000 to 2,800 annual degree days, and notes the consistency of the degree day data for the vineyards located within the 1983 establishment of the viticultural area, the 2005 expansion, and the current proposed expansion area. The petition concludes that this degree day data show that the proposed

expansion area has the same climate as the current Russian River Valley viticultural area. Further, the petitioner provided a raster map showing that annual average degree days in the proposed expansion area are within the same range as that of much of the existing viticultural area (see “Growing Degree Days” for Sonoma County (1951–80 average), published by the Spatial Climate Analysis Service, Oregon State University at <http://www.ocs.oregonstate.edu/index.html>).

The petition also notes that 940 was the annual average number of hours between 70 and 90 degrees Fahrenheit at the Two Rock Ranch Vineyard during the April through October growing season from 1996-1998. Based on the “Sonoma County Climatic Zones” map, this average lies within the 800- to 1100-hour range that characterizes the coastal cool zone. The marine zone has fewer than 800 hours between 70 and 90 degrees Fahrenheit during the growing season.

The petition includes a report, written at the request of the petitioner, which includes a detailed analysis of the climate of the proposed expansion area. The petitioner requested expert commentary on the proposed expansion area, and the petition states that the report’s author, Patrick L. Shabram, geographic consultant, has extensive experience in Sonoma County viticulture.

In the report, Mr. Shabram disputes the idea that the proposed expansion area is in a marine climate zone and cites three main factors in support of his position. First, successful viticulture would not be possible in a true marine zone because of insufficient solar radiation. Second, the proposed expansion area is

well inland as compared to the rest of the marine zone; climatic conditions in the proposed expansion area would not be characteristic of a marine zone. Finally, Mr. Shabram states that the petitioner's climate data (summarized above) “* * * clearly demonstrates that the area should be classified as ‘Coastal Cool,’ rather than the Marine climate type.”

Mr. Shabram provided the petitioner with a map that depicts all the proposed expansion area as belonging to the coastal cool zone (see “Revised Sonoma County Climatic Zones of the Russian River Valley Area,” by Patrick L. Shabram, 2007, based on “Sonoma County Climatic Zones” and “Revised Coastal Cool/Marine Climate Zones Boundary,” by Patrick L. Shabram).

Topography and Elevation

According to the petition, the southernmost portion of the proposed expansion area is on the “Merced Hills” of the Wilson Grove formation. These are gently rolling hills predominantly on 5 to 30 percent slopes. The current Russian River Valley viticultural area does not encompass these hills; the proposed expansion area includes a portion of them.

The northern portion of the proposed expansion area comprises the essentially flat Santa Rosa Plain. The plain is consistent with the portion of the current Russian River Valley viticultural area that wraps around both the west and north sides of the proposed expansion area. Elevations in the proposed expansion area range from 715 feet to 75 feet above sea level, which are similar to elevations in adjoining areas of the current Russian River Valley viticultural area.

Soils and Geology

The petition discusses the similarities between the soils of the proposed expansion area and those of the current viticultural area based on a soil association map (see “Soil Survey of Sonoma County, California,” online, issued by the U.S. Department of Agriculture, Natural Resources Conservation Service, (<http://websoilsurvey.nrcs.usda.gov/app/>)). The soils on the Merced Hills included in the proposed expansion area formed mainly in sandstone rocks of the underlying Wilson Grove formation. This formation, which formed 3 to 5 million years ago under a shallow sea, is characterized by low lying, rolling hills beginning just south of the Russian River near Forestville, arching southeast through Sebastopol, and ending at Penngrove. According to the petition, the soils underlain by this formation are well suited to growing grapes in vineyards.

The petition includes the following quotation discussing the suitability of the soils to growing grapes in the proposed expansion area:

The sandy loam soils of the apple-growing region of Gold Ridge-Sebastopol form as a direct result of breakdown of Wilson Grove rock. The low ridge running from Forestville to Sebastopol and south to Cotati is the classic terroir of this association, now being recognized as prime land and climate for Pinot Noir and Chardonnay. (“Diverse Geology/Soils Impact Wine Quality,” by Terry Wright, Professor of Geology, Sonoma State University, “Practical Winery & Vineyard,” September/October 2001, Vol. XXIII, No. 2.)

The petition notes that the Wilson Grove formation underlies the current Russian River Valley viticultural area, but the current southeastern portion of its border cuts north to south through the formation, midway between Sebastopol and Cotati. However, the soil associations on either side of this southeastern

portion of the current Russian River Valley viticultural area are identical. The Goldridge-Cotati-Sebastopol soil association is nearly continuous throughout the formation. The petition states that areas of Sebastopol sandy loam are in the Laguna Ranch Vineyard just north of the town of Sebastopol (in the current viticultural area) and also in the Two Rock Ranch Vineyard in the proposed expansion area, just west of the town of Cotati.

The petition states that the Clear Lake-Reyes association is in the portion of the proposed expansion area north of the Merced Hills. The soils in this association are poorly drained, nearly level to gently sloping clays, and clay loams in basins. This soils association is in the southeast portion of the Santa Rosa plain and also in pockets further north, almost directly west of the city of Santa Rosa. The Huichica-Wright-Zamora association is further north in the proposed expansion area. The soils of this association are somewhat poorly drained to well drained, nearly level to strongly sloping loams to silty loams on low bench terraces and alluvial fans. These soils are common in the middle and northern portions of the Santa Rosa plain, and are predominant in the eastern portion of the current Russian River Valley viticultural area, including the city of Santa Rosa, and in the proposed expansion area.

The petition notes that the "Soil Survey of Sonoma County, California" soil association map cited above shows that the current viticultural area boundary arbitrarily cuts directly through four major soil associations: Goldridge-Cotati-Sebastopol, Clear Lake-Reyes, Steinbeck-Los Osos, and Huichica-Wright-Zamora. The soils and the geology in the proposed expansion area are nearly

identical to those in the adjacent areas of the current Russian River Valley viticultural area.

TTB noted in Notice No. 90 that T.D. ATF–159, which established the Russian River Valley viticultural area, does not identify any predominant soils or indicate any unique soils of the viticultural area.

Grape Brix Comparison

The petition compares Brix for grapes grown in both the current viticultural area and the proposed expansion area. Brix is the quantity of dissolved solids in grape juice, expressed as grams of sucrose in 100 grams of solution at 60 degrees Fahrenheit (see 27 CFR 24.10). Citing a brochure published by the Russian River Winegrowers Association, the petition notes that Pinot Noir and Chardonnay are the two most prominent grape varieties grown in the current Russian River Valley viticultural area. The successful cultivation of the Pinot Noir grape, in particular, has been considered a hallmark of the Russian River Valley viticultural area, and the Pinot Gris grape variety recently has been growing in popularity.

Data submitted with the petition show the 4-year average Brix comparisons for the period 2003–6 for the Pinot Noir, Chardonnay, and Pinot Gris varieties among three vineyards in the current Russian River Valley viticultural area and in the Two Rock Ranch Vineyard within the proposed expansion area (see the table below). The petition asserts that the Brix levels for each variety at all four of the vineyards are very similar, reflecting similar growing conditions for the grapes.

2003–6 Average Brix for Some Winegrapes Grown on Ranches in the Current Viticultural Area and the Proposed Viticultural Area			
Ranch	Average Brix		
	Pinot Noir	Chardonnay	Pinot Gris
Laguna North	25.04	23.79	--
Del Rio	26.69	23.24	24.68
MacMurray	25.77	--	24.71
Two Rock*	25.80	23.55	24.14

* Located in the proposed expansion area.

In addition to the petition evidence summarized above, the petition included six letters of support from area grape growers and winery owners. The supporters generally assert that the proposed expansion area has the same grape growing conditions as the current Russian River Valley viticultural area. The petition also included a “Petition of Support: Russian River Valley AVA Expansion” with 208 signatures.

Opposition to the Proposed Expansion

Prior to and during review of the petition for the expansion, TTB received by mail, facsimile transmission, and e-mail more than 50 pieces of correspondence opposing the proposed expansion. The correspondence generally asserts that the proposed expansion area falls outside the coastal fog line and thus has a different climate than that of the current viticultural area. The opponents of the proposed expansion are mostly vineyard or winery owners from the existing Russian River Valley viticultural area. Several of the opponents state that even though grapes grown in the proposed expansion area “may eventually be brought to similar Brix, pH and total acidity maturity, the bloom and harvest

dates are much later than in the Russian River Valley.” TTB, when discussing this opposing correspondence in Notice No. 90, also noted that the assertions in the correspondence were not accompanied by any specific data that contradicted the petitioner’s submitted evidence. In the Comments Invited portion of Notice No. 90, TTB specifically indicated that comments in response to the Notice should be supported with specific data or other appropriate information.

Expansion of the Northern Sonoma Viticultural Area

In Notice No. 90, TTB noted that prior to the 2005 expansion, all of the Russian River Valley viticultural area had been within the Northern Sonoma viticultural area. TTB further noted, however, that portions of the current boundaries of the Russian River Valley viticultural area and of the Green Valley of Russian River Valley viticultural area (which lies entirely within the Russian River Valley area) currently extend beyond the south and southeast portions of the Northern Sonoma viticultural area boundary line. The proposed new 14,044-acre expansion of the Russian River Valley viticultural area similarly is outside the boundary line of the Northern Sonoma viticultural area.

So that all of the Russian River Valley viticultural area would again fall within the Northern Sonoma viticultural area, as was the case prior to the 2005 expansion, TTB also proposed in Notice No. 90 a southern and southeastern expansion of the Northern Sonoma viticultural area boundary line to encompass all of the Russian River Valley viticultural area, including the currently proposed expansion of the Russian River Valley viticultural area. As a result, the Northern Sonoma viticultural area would increase in size by 44,244 acres to 394,088

acres, or by 9 percent. The following information was provided in support of this proposed expansion.

Name and Boundary Evidence

The Northern Sonoma viticultural area was established on May 17, 1985, by T.D. ATF–204 (50 FR 20560), which stated at 50 FR 20561:

* * * Six approved viticultural areas are located entirely within the Northern Sonoma viticultural area as follows: Chalk Hill, Alexander Valley, Sonoma County Green Valley [subsequently renamed Green Valley of Russian River Valley], Dry Creek Valley, Russian River Valley, and Knights Valley.

The Sonoma County Green Valley and Chalk Hill areas are each entirely within the Russian River Valley area. The boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley areas all fit perfectly together dividing northern Sonoma County into four large areas. The Northern Sonoma area uses all of the outer boundaries of these four areas with the exception of an area southwest of the Dry Creek Valley area and west of the Russian River Valley area * * * *

The originally established Northern Sonoma viticultural area was expanded by T.D. ATF–233, published in the **Federal Register** (51 FR 30352) on August 26, 1986 and, again, by T.D. ATF–300, published in the **Federal Register** (55 FR 32400) on August 9, 1990.

The current southern portion of the boundary line of the Northern Sonoma viticultural area, west to east, follows California State Highway 12 from its intersection with Bohemian Highway, through the town of Sebastopol, to its intersection with Fulton Road. Although T.D. ATF–204 does not explain the basis for the choice of California State Highway 12 as the southern portion of the Northern Sonoma boundary line, TTB notes that at that time, California State

Highway 12 also formed the southern portion of the boundary line of the Russian River Valley viticultural area.

T.D. ATF–204 included information regarding the geographical meaning of “Northern Sonoma” as distinct from the rest of Sonoma County. Although a Web search conducted by TTB failed to disclose conclusive information regarding current non-viticultural usage of “Northern Sonoma” as a geographical term, a Web search for “Southern Sonoma County” did disclose specific geographical data. The Southern Sonoma County Resource Conservation District (SCC–RCD) Web site has Sonoma County maps and describes the district as including the “southern slopes of Meacham Hill” (alternative spelling of “Meacham,” as on the USGS map), in the northern portion of the Petaluma River watershed in southern Sonoma County. Meacham Hill, according to the USGS Cotati map, lies 1.25 miles southeast of the area included in the expansion of the Northern Sonoma viticultural area proposed in Notice No. 90. Further, the SCC–RCD maps show that the southern Sonoma County watershed excludes the Gold Ridge District, which comprises much of the Russian River watershed, including the Russian River Valley viticultural area and the area proposed in Notice No. 90 to be added to it.

Sonoma County Relocation, a real estate service, defines southern Sonoma County as extending south from the town of Penngrove. According to the USGS Cotati map, Penngrove lies 2.4 miles east-southeast of the proposed expansion of the Northern Sonoma viticultural area boundary line. The City of Petaluma, the southernmost large population center in Sonoma County, lies 6

miles southeast of the proposed expansion of the Northern Sonoma viticultural area.

Based on the above, TTB stated in Notice No. 90 that it is reasonable to conclude that the name "Northern Sonoma," as distinct from southern Sonoma County, includes all of the Russian River Valley viticultural area, including the proposed expansion of that area that was the subject of Notice No. 90.

Comments on the proposed expansions were originally due on or before October 20, 2008. However, on October 29, 2008, in response to a request filed on behalf of the Russian River Valley Boundary Integrity Coalition, a group of area vineyards and wineries, TTB reopened the comment period for Notice No. 90, with comments due on or before December 19, 2008 (see Notice No. 91 published in the **Federal Register** at 73 FR 64286 on October 29, 2008).

Comments Received in Response to Notice No. 90

TTB received 171 comments in response to Notice No. 90. Of those, 26 comments support the proposal to expand the Russian River Valley and Northern Sonoma viticultural areas, while 133 are in opposition. The 12 remaining comments include one request to extend the comment period, one request for a public hearing, three comments from the petitioner's consultants defending their analyses and credentials, various copies of media reports about the proposed rulemaking, and other comments requesting actions beyond the scope of this rulemaking.

The origins of comments are as follows: 109 comments are from grape growers and/or wineries; 26 have no identified affiliation; 13 are from self-

described consumers; 8 are from the petitioner or its two consultants; 7 are from grape grower associations (Russian River Valley Winegrowers, Russian River Valley Boundary Integrity Coalition, Allied Grape Growers, and Petaluma Gap Winegrowers Alliance); and 5 are from other wine professionals (writers, retailers, and educators).

Supporting Comments

The 26 comments supporting the regulatory action proposed in Notice No. 90 are from: 20 area grape growers; the petitioner and its two consultants; Constellation Brands, Inc.; and Allied Grape Growers, a California wine grape marketing cooperative. Most of these commenters state that they support the proposal and that they believe that the petitioner's evidence demonstrates that the proposed expansion area should be considered part of the Russian River Valley AVA. In response to comments from opponents, the petitioner and its consultants submitted additional arguments and evidence to support the proposal; these are discussed below where appropriate.

Opposing Comments

Comments opposing the regulatory action proposed in Notice No. 90 are from: 78 area grape growers and wineries; all 13 of the self-identified consumers; the membership of the Russian River Valley Winegrowers Association (the Association's board voted to take a neutral position on the expansion issue); the Russian River Valley Boundary Integrity Coalition (RRVBIC), which also requested a public hearing; and wine professionals. The most common reasons provided for opposing the proposed expansion of the

Russian River Valley viticultural area are that the proposed expansion area is not known to be part of the Russian River Valley and that the proposed expansion area has a different climate from that of the existing Russian River Valley viticultural area. The vast majority of opposing comments address only the petitioned-for expansion of the Russian River Valley; only a few comments specifically address the proposed expansion of the Northern Sonoma viticultural area. Unless otherwise noted, the opposing comments discussed below address only the petitioned-for Russian River Valley expansion.

Discussion of Comments

Name Evidence

Many opposing commenters state that they do not believe that the proposed expansion area is considered part of the Russian River Valley, and two opposing commenters also state that the proposed expansion area is not part of northern Sonoma. Most of these commenters refer to the proposed expansion area as the Cotati or Rohnert Park areas, for two cities adjacent to the area, or as the Petaluma Gap, as discussed in more detail below.

Seven commenters state that the proposed expansion area is considered part of southern Sonoma County; the Russian River Valley viticultural area, in contrast, is considered part of northern Sonoma County and is mostly encompassed by the Northern Sonoma viticultural area. Hector Bedolla of the RRVBIC, in his comment (numbered by TTB as comment 7), states that it is “ridiculous” to add an area ten miles from the Marin County line (Marin County is south of Sonoma County) to the Northern Sonoma viticultural area. Another

commenter, Barry C. Lawrence (comment 118), submitted four quotes from Web sites and area businesses describing Cotati, Rohnert Park, and Petaluma as part of southern Sonoma County. Mr. Lawrence also reports polling four Cotati and Rohnert Park city and school officials to ask whether their area is in the Russian River Valley or in southern Sonoma County; according to Mr. Lawrence, the officials all responded “no” and “yes,” respectively. A few commenters note that the petitioner’s vineyard in the proposed expansion area, Two Rock Ranch, is named for the town of Two Rock, which is located southwest of the proposed area; the commenters argue that this name shows that the area is oriented to the Petaluma Gap region to the southwest, rather than to the Russian River Valley to the north.

A few commenters submitted historical references as evidence that the proposed expansion area has not historically been associated with the Russian River Valley. One of these, Maurice Nugent of Nugent Vineyards Inc. (comment 12), cited “History of Sonoma County, California, 1850” as stating, “The lower end of this vast [Sonoma County] plain is Petaluma, the central portion is Santa Rosa, and the northern section, the Russian River Valleys.” Mr. Nugent notes that the proposed expansion area is south of the current city of Santa Rosa.

Dr. William K. Crowley, a Professor Emeritus of Geography at Sonoma State University in Rohnert Park, submitted a forty-one page analysis of the petition on behalf of the RRVBIC. This analysis (comment 120) included several maps and documents as name evidence. Many of these documents show that, in the nineteenth century, the proposed expansion area was part of Petaluma

Township, an area considered part of southern Sonoma County. The Russian River Township, Dr. Crowley notes, was much further to the north. Dr. Crowley also provided more recent evidence in the form of two USGS maps published in 1958 and 1970 that label the proposed expansion area as the Cotati Valley, as well as a map of Sonoma County winegrowing areas from a 1977 article that he wrote for "The California Geographer," which shows a Russian River Valley that does not include the proposed expansion area.

Several commenters state that they found the petitioner's name evidence to be insufficient. Other than evidence regarding the Russian River watershed (discussed in more detail below), the petitioner's name evidence consisted only of a tourism map of the Russian River Valley, two letters from individuals (one a local wine historian) stating their views that the proposed expansion area has historically been associated with the Russian River Valley, and several documents regarding the agricultural and economic history of Sonoma County that the petitioner contends show the expansion area and the AVA share a similar agricultural and economic history.

A few opposing commenters note that the petitioner's tourism map, taken from the Web site Russian River Travel.com (<http://www.russianrivertravel.com/>), shows nearly all of Sonoma County and portions of neighboring counties, so the map is therefore too general to be used as evidence of what is part of the Russian River Valley. One of these commenters, Dr. Crowley, also argues that other pages within the travel Web site support the view that the proposed expansion area is not considered part of the Russian River Valley. For example,

the Web site's home page lists cities within the Russian River Valley that tourists might visit. He states that, although the list is extensive, "it does not include either Cotati or Rohnert Park the towns partially within the petitioned area, and both part of the Russian River watershed, because obviously the petitioned area is not seen as part of the Russian River Valley."

Several opposing commenters state that the proposed expansion area does not share a similar agricultural history with the Russian River Valley. According to these commenters, the proposed expansion area has been known in recent decades for its poultry and dairy farms, while the Russian River Valley has historically been a fruit growing area. Before grapes were the dominant crop, these commenters note, the Russian River Valley was known for apple orchards. Commenters state that these differences are due to climatic differences between the two areas. Maurice Nugent, citing data from the 1893 phylloxera survey, states that the petitioned-for expansion area had far fewer vineyards at that time than the current viticultural area to the north.

The Petaluma Gap

Fifty-two commenters argue that the petitioned-for expansion area is part of a region known as the Petaluma Gap rather than the Russian River Valley. The Petaluma Gap Winegrowers Alliance (comment 44), an association of growers and wineries formed in 2006, submitted a comment describing the Petaluma Gap as a distinct winegrowing area within the Sonoma Coast viticultural area. The Alliance submitted a map entitled "Sonoma Coast (Southern Section) American Viticultural Area with the Petaluma Gap," on which

an area of southern Sonoma County and Northern Marin County is prominently labeled the “Petaluma Gap.” TTB observes that a portion of the petitioned-for expansion area and a portion of the current Russian River Valley viticultural area are located within the boundary line for the Petaluma Gap on the map. Two other commenters, Dr. Crowley and Dow Vineyards (comment 97), also submitted copies of this map to demonstrate that the proposed expansion area is part of the Petaluma Gap rather than Russian River Valley.

Four commenters in favor of the proposal dispute the contention that the petitioned-for expansion area is known as the Petaluma Gap. One of these, Patrick Shabram (comment 17), states that the Petaluma Gap is “an area of relatively lower hills in the Sonoma and Marin coastal highlands.” He further states that “the term ‘Petaluma Gap’ is sometimes popularly used to refer to the area southwest of the proposed expansion and northwest of the city of Petaluma.” In addition, two of these commenters (the petitioner, comment 67, and Cameron Sustainable Ag, LLC, comment 62) state that the Petaluma Gap map was recently developed by an opponent of the proposed expansion in an effort to discredit the expansion. These commenters also state that a portion of the current viticultural area is included within the map’s boundaries for the Petaluma Gap, so the commenters contend that the map should not be considered valid evidence.

Russian River Watershed

Eleven comments opposing the petitioned-for expansion note that a portion of the proposed expansion area (that is, part of Two Rock Ranch) is not

within the Russian River watershed. TTB notes that the petition acknowledges this fact, but the petition also states that this portion is very small (2 percent of the proposed expansion area) and that a similar portion (1.43 percent) of the current Russian River Valley viticultural area is also not within the Russian River watershed.

Thirteen commenters acknowledge that the proposed expansion area is (mostly) within the watershed, but these commenters note that the watershed is much larger than the current Russian River viticultural area and extends several miles north into Mendocino County. One commenter (Siebert Vineyard, comment 36) states that 99.7 percent of the Russian River watershed is not in the Russian River Valley viticultural area. These commenters also point out that the watershed encompasses all or part of several other viticultural areas (for example, Alexander Valley, Dry Creek Valley, Mendocino, and Redwood Valley), which are acknowledged to have different growing conditions than the Russian River Valley viticultural area. Thus, they argue, merely being in the Russian River watershed is not reason enough to be included in the Russian River Valley viticultural area.

Geographical Features

Climate

A large number of opposing commenters assert that the petitioned-for expansion area has a different climate than the existing Russian River Valley viticultural area. Most of these commenters state that the proposed expansion area is cooler and windier, and lacks the Russian River Valley viticultural area's

characteristic “coastal fog.” Comments regarding fog and wind are discussed in greater detail later in this comment discussion.

Five opposing commenters make specific criticisms of the petitioner's data regarding degree days. To recap the petition data, using the Winkler system, the petitioner submitted a complete degree day data set for the years 1996-1998 for three of its vineyards: Laguna Ranch and MacMurray Ranch, both located within the Russian River Valley viticultural area as established in 1983, and Two Rock Ranch, located within the proposed expansion area. The annual degree day averages for the three-year period were then compared to the 2001 degree day data for four other Russian River Valley vineyards, which were published in the 2005 rulemaking document that expanded the viticultural area.

The opposing commenters note that the degree day data covers only a three-year period from a decade ago, and assert that the data provide an insufficient basis for stating that the expansion area has the same climate as the Russian River Valley viticultural area. The commenters also note that data were submitted for only one location in the proposed expansion area. Frank R. Bailey, III, of Bailey Vineyards (comment 88), states: “One data point in the expansion area is not sufficient to prove anything about climate in the 14,000 acre area, much less overturn climate reports that were prepared with 30 years of data * * *. Furthermore, the petition shows that this one data point only uses a selective 3 year period of time. This one location did not even include scientifically randomized or long term information * * *. This selective use of data is not credible.” Paul Ahvenainen of F. Korbel & Bros., Inc. (comment 68)

similarly states: “The petitioner wishes to add approximately 14,000 acres of land to the RRV using only one data point in the expansion area. That data point is in the extreme southeast corner of the expansion area. * * * Three years is not enough data to accurately portray a climate accurately. I would have expected the petitioner to supply data from the following ten years.” Dr. William K. Crowley further states: “It is also reasonable to ask why the selected years were used for presentation. The petition was filed in 2008, but the latest data cited are from 1998. What do the data for the years since 1998 look like? Three years of data from one site are not sufficient evidence for moving a viticultural area boundary.”

Mr. Ahvenainen and Dr. Crowley also note that the petitioner’s data show that Two Rock Ranch accumulated only 1,925 degree days in 1998. According to the Winkler system, 1,925 degree days would place the site in the cooler “marine” zone instead of the “coastal cool” zone which characterizes the Russian River Valley viticultural area. [TTB notes that the degree day data for each of the three years contained in the 1996-1998 degree day averages for the petitioner’s vineyards are contained in Exhibit 21 to the petition; Exhibit 21 also shows that the degree days for Two Rock Ranch in 1996 and 1997 were 2,219 and 2,537, respectively; these data were not included in Notice No. 90.]

As described above, the petition also included a detailed analysis of the proposed expansion area’s climate that was prepared by Patrick Shabram, a geographic consultant who claims extensive experience in Sonoma County viticulture. In this analysis, Mr. Shabram states that the petitioner’s climate data,

which showed an average of 940 degree days of temperatures between 70 and 90 degrees Fahrenheit during the growing season from 1996-1998 for Two Rock Ranch vineyard (within the proposed expansion area), demonstrate that the area should be classified as “coastal cool” rather than as a “marine” climate type. Mr. Shabram also provided the petitioner with a climate zone map that he drafted in which all of the proposed expansion area is depicted as belonging to the coastal cool zone. This map is a revision of an earlier climate map entitled “Sonoma County Climatic Zones” (Paul Vossen, University of California Cooperative Extension Service, Sonoma County, 1986). The earlier map, which was included in the petition and also submitted by a few opposing commenters, clearly depicts the proposed expansion area as having a marine climate and the Russian River Valley viticultural area as having a coastal cool climate.

Eight commenters disagree with Mr. Shabram’s conclusions regarding the proposed expansion area’s climate. In particular, these commenters disagree with Mr. Shabram’s revisions to the “Sonoma County Climatic Zones” map based on the petitioner’s data. The earlier map, they state, was developed by Paul Vossen and R.L. Sisson after analyzing thirty years of Sonoma County climate data, so the earlier map is more credible than Mr. Shabram’s analysis, which is based on only three years of data from one location. Two of these commenters (Mr. Ahvenainen and Dr. Crowley) further state that Mr. Shabram contradicts earlier statements that Mr. Shabram made in his 1998 master’s thesis about climate. Dr. Crowley quotes Mr. Shabram as stating in this thesis that a researcher’s climate work was “somewhat suspect because [it] use[s] data that

were taken over only a ten year period.” The petitioner and Mr. Shabram submitted rebuttal comments (comments 17, 18, and 67) defending Mr. Shabram’s analysis, arguing that newer data collected with more modern methods should supersede the older climate map. The petitioner and Mr. Shabram also point out that a vineyard currently in the Russian River Valley viticultural area is similarly located within the older map’s marine climate zone.

Fog

T.D. ATF–159, which established the Russian River Valley viticultural area, states that the viticultural area includes those areas “where there is significant climate effect from coastal fogs.” The petition argues that the same fog that affects the existing viticultural area also affects the proposed expansion area.

On the other hand, however, some commenters argue that the proposed expansion area has more fog, or fog of a different quality, than the fog that affects the existing Russian River Valley viticultural area. Most of these commenters state that the proposed expansion area has marine fog, rather than the coastal fog that affects the existing viticultural area. According to these commenters, marine fog is much heavier and colder than coastal fog, thus creating a different climate. One commenter, Siebert Vineyards, argues that “the defining characteristic of the Russian River Valley AVA is not the presence of the fog itself, but the balance between the [warmer] inland valley climate and the fog.” Another commenter, Dr. Crowley, states that fog intrusions characterize all of western Sonoma County as well as counties to the north and south, so fog

alone is not a sufficient reason to include an area in the Russian River Valley viticultural area.

Wind

Twenty-five commenters state that the petitioned-for expansion area is much windier than the existing Russian River Valley viticultural area. One comment, from Nunes Vineyard (comment 53), includes links to technical articles about how wind affects grapevines. This commenter argues that the wind in the proposed expansion area causes grapes from that area to develop different color, flavor, and aroma compounds than those from the existing viticultural area, resulting in wines with different characteristics. Some of these commenters note that wind breaks consisting of eucalyptus trees are planted throughout the proposed expansion area, but not in the existing Russian River Valley viticultural area. Four commenters note that there are high wind warning signs in the proposed area, located on Highway 101 about ¼ mile north of Two Rock Ranch. Mr. Ahvenainen, who submitted a photo of one of these signs, states that they are the only such signs in Sonoma County. Another commenter notes that a winery in the expansion area is named Windy Hill Vineyard & Winery.

The petitioner responds that opponents submitted no hard evidence regarding wind, and that wind breaks and vineyard names are inadequate evidence to demonstrate the existence and effect of wind in the proposed expansion area. The petitioner's response further notes that a Windy Hill Ranch is located in the current Russian River Valley viticultural area. The petitioner also included with its comment wind speed data collected from several sites within the

current viticultural area and the proposed expansion area. Some of the data is from California Irrigation Management Information System (CIMIS) weather stations, while the remaining data are “from weather stations positioned on vineyards.” The petitioner notes that the CIMIS data show that the Petaluma station (ostensibly in the Petaluma Gap, but not in the petitioned-for expansion area) recorded winds no stronger than winds in the existing viticultural area. The data also show that wind speeds from Two Rock Ranch (not a CIMIS station) are no stronger than those within the existing viticultural area. In response, five commenters argue that the petitioner’s self-collected wind data are not reliable. These commenters state that the placement of the measuring device in a sheltered site, such as on the lee side of a windy hill or close to the ground, could produce readings that are not typical of the area.

Vegetation

Several commenters state that the petitioned-for expansion area is nearly treeless and has little vegetation compared to the existing Russian River Valley viticultural area, which they describe as rich in redwoods and oaks. Three of these commenters submitted photographs showing the contrasting vegetation of the two areas. In this regard, Bailey Vineyards states: “One hallmark feature of the Russian River Valley area is the ubiquitous redwood forest in the background of every vineyard or vista of the Russian River Valley * * * they are long standing evidence of the qualities of fog drip, humidity, soil type and hydration of the soil. The proposed expansion area is not in the vicinity of redwood trees

* * * .”

In response to these comments, the petitioner submitted a map entitled “Russian River Watershed Vegetation” issued by the California Department of Fish & Game, which the petitioner argues shows that both the existing viticultural area and the petitioned-for expansion area share similar natural vegetation. The petitioner also states that its Sonoma County personnel have observed no differences in vegetation between the two areas.

Harvest Dates

Several opposing commenters state that they have observed the petitioner picking its grapes at Two Rock Ranch later in the season than growers in the Russian River Valley viticultural area. This, they state, is an indication of the proposed expansion area’s climate. In response, the petitioner argues in its comments that harvest dates are not significant because they can be manipulated by factors other than climate, such as irrigation practices, canopy management, and crop load. Notwithstanding these arguments, the petitioner provided harvest dates for Two Rock Ranch and for its vineyards located within the existing viticultural area, which show that grapes in both areas were picked in the same “harvest window,” according to the petitioner.

Comments Regarding Issues Outside the Scope of Part 9

Numerous commenters cite various reasons for opposition to the proposed expansion of the Russian River Valley viticultural area that do not relate to the regulatory criteria set forth in 27 CFR 9.12 for viticultural area petitions. The points made by these commenters included the following:

- Approval of the proposal will harm growers/wineries in the current Russian River Valley viticultural area. Many of these commenters believe that the proposed expansion will result in lower grape prices. Other commenters state that small growers will not be able to compete with the petitioner, one of the world's largest wine companies. A few of these commenters further state that approving the petitioned-for expansion goes against TTB's mission to ensure a "fair and even marketplace."

With respect to this point and the potential effect on small grape growers, TTB notes that the Allied Grape Growers (comment 24) state that they do not believe that the proposed expansion would lower grape prices. TTB also notes that the petitioner already has vineyards located within the 154,984-acre Russian River Valley viticultural area, so the approval of the petitioned-for expansion area would not introduce the petitioner to the marketplace for wines or grapes from that viticultural area. Further, according to the petition, the petitioner's Two Rock Ranch Vineyard, which located in the 14,044-acre petitioned-for expansion to the Russian River Valley viticultural area, is only 350 acres. By comparison, there are over 15,000 acres of vineyards in the current viticultural area, according to the Russian River Valley Winegrowers web site (see www.rrvw.org/ava-boundary). The petitioner's 350 vineyard acres represents less than 2.5 percent of the vineyard acres currently within the Russian River Valley viticultural area.

- Wines from the petitioned-for expansion area taste different from those from the existing Russian River Valley viticultural area. Although most of these comments merely cite differences in taste, a few state that wines from the

proposed expansion area are “inferior.” These commenters argue that these differences will confuse consumers and ultimately hurt the reputation and/or sales of wineries and growers currently in the viticultural area.

TTB notes that the purpose of viticultural areas is to allow vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. TTB also reiterates that the establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area, including a determination of wine quality.

- Approval will lead to more expansion petitions. Several commenters argue that approving this proposal will lead to still more petitions to expand the Russian River Valley viticultural area, and one commenter suggests that TTB’s acceptance of the proposed expansion of the Northern Sonoma viticultural area will make it more difficult for TTB to reject future petitions to expand that viticultural area.

TTB will examine the merits of any such petitions when and if they are received. TTB’s decision regarding whether to approve the proposed expansion areas will neither forestall any future petitions regarding the expansion or re-alignment of the boundary lines for the Russian River Valley or Northern Sonoma viticultural areas, nor affect the likelihood of TTB’s acceptance of any such proposals in the future.

TTB Analysis

The Proposed Expansion of the Russian River Valley Viticultural Area

TTB notes that although the comments submitted in response to Notice No. 90 overwhelmingly oppose the proposed expansion of the Russian River Valley viticultural area, the petition included a “Petition of Support: Russian River Valley AVA Expansion” with 208 signatures. Thus, significant numbers of persons have expressed support of and opposition to the expansion of the Russian River Valley viticultural area. In view of the divided opinions on whether or not TTB should approve the petitioned-for expansion, in addition to the petition evidence and the comments received, TTB reviewed the regulatory record concerning the establishment of the Russian River Valley viticultural area to ensure that any action taken concerning this petitioned-for expansion would be consistent with prior regulatory actions. In particular, TTB reviewed T.D. ATF–159, which initially established the Russian River Valley viticultural area in 1983, and T.D TTB–32, which expanded the viticultural area southward in 2005. TTB also notes that the number of comments received in response to this proposed rulemaking greatly exceeds the number of comments received on the initial establishment of the Russian River Valley viticultural area (only one comment, in favor) and on the 2005 expansion (two comments, both in favor).

Name Evidence

With regard to the issue of name evidence for the petitioned-for expansion, TTB reviewed the regulatory history of the Russian River Valley viticultural area, and those prior rulemakings do not reflect name evidence that

clearly defines what area is recognized as constituting the Russian River Valley. Maps of the Russian River watershed and of the current viticultural area submitted with the petition indicate that the Russian River Valley viticultural area occupies only a small portion of the watershed. Moreover, the Russian River itself flows in a southerly direction far north of the of the current viticultural area boundary, then into the current viticultural area through the northern portion of the boundary, and then westward through the northern portion of the viticultural area before passing through the western portion of the viticultural area boundary on its way to the Pacific Ocean.

The name evidence submitted in support of the petitioned-for expansion is based on the proposed area being within the Russian River watershed, on several letters from vineyard owners who express their beliefs that the expansion area is known to be part of the Russian River Valley, and on a letter from William F. Heintz, a local wine and viticulture historian. The petitioner also included a printed copy of map entitled "Russian River Map" on which the proposed expansion area appears.

With regard to those commenters who indicate that the petitioned-for expansion area is known by other names such as Rohnert Park and Cotati, or is part of the Petaluma Gap, TTB notes that the Russian River Valley is a large area that also incorporates other communities such as Sebastopol and Healdsburg. Recognition of the names of communities such as Rohnert Park and Cotati does not preclude the area from being recognized as part of the larger Russian River Valley. Regarding the assertion that the expansion area is known

under the name of Petaluma Gap rather than as part of the Russian River Valley, TTB believes that the evidence submitted is not conclusive or persuasive.

Some opposing commenters assert that the Russian River Valley is in northern Sonoma while the proposed expansion area is in southern Sonoma, with one commenter citing historical documentation that puts Petaluma Valley to the south, Santa Rosa Valley to the center, and the Russian River Valley to the north. Several commenters (for example, Dr. Crowley) submitted maps and other historical evidence indicating that the Russian River Valley does not extend south of Santa Rosa. In response to these comments, TTB notes that the regulatory history does not lead to the conclusion that what is known as the Russian River Valley is a term exclusive to “northern” Sonoma. Although T.D. ATF–159 indicates that the Russian River Valley viticultural area as initially established was north of Santa Rosa, the existing viticultural area, as expanded southward by T.D. TTB–32 in 2005, extends significantly south of Santa Rosa. With regard to the 2005 expansion, TTB notes that Dr. Crowley’s comment appears to be supportive of that regulatory action, which also involved an expansion to the south of Santa Rosa.

With regard to the tourism map, TTB agrees with the opposing commenters that the map does not identify the proposed expansion area as being known as part of the Russian River Valley.

However, even without considering the tourism map as supporting evidence, TTB believes that the petitioner has submitted sufficient evidence that the expansion area is associated with what is known as the Russian River Valley.

Specifically, the petitioner's assertion is supported by evidence that the expansion area is almost entirely within the Russian River watershed, by the letter from Mr. Heinz, and by other letters in support of the expansion area. Moreover, the prior regulatory record, specifically T.D. TTB-32, is consistent with the petitioner's assertion that the Russian River Valley name extends to the south, where the petitioned-for expansion area lies.

Boundary Evidence

As described in Notice No. 90, the boundary line for the proposed expansion area is based upon well-supported evidence that the proposed boundary line primarily follows the ridge that defines the southern flank of the Russian River watershed, and it then turns north to meet the current boundary line of the viticultural area. Although some comments contend that the proposed expansion area is part of the "Petaluma Gap" rather than the Russian River Valley, TTB notes that comment 44, which was submitted by the Petaluma Gap Winegrowers Alliance, does not oppose the proposed expansion of the Russian River Valley viticultural area or otherwise address the evidence submitted in support of the proposed expansion; rather, the comment merely describes the Petaluma Gap region and states that the Petaluma Gap Winegrowers Alliance strongly supports the Sonoma Coast viticultural area and its current boundary line. TTB has not recognized the Petaluma Gap as a viticultural area, and no evidence has been submitted that sufficiently identifies and supports any specific distinguishing features of the Petaluma Gap region. Further, as previously noted, the map of the Petaluma Gap submitted for the rulemaking record indicates that

a portion of the petitioned-for expansion area, as well as a portion of the current Russian River Valley viticultural area, is located within the boundary line for the Petaluma Gap area. In summary, none of the comments submitted provide sufficient evidence to refute the evidence submitted by the petitioner that the proposed boundary line is appropriate for the Russian River Valley viticultural area.

Geographical Features

Climate

The issues raised in the comments concerning temperature data primarily concern the adequacy of the data to demonstrate that the petitioned-for expansion is in a coastal cool climate zone. The petitioner supplied three years of degree day data from the Two Rock Ranch, which is in the southernmost portion of the proposed expansion area. In Notice No. 90, TTB determined that these data were sufficient for purposes of soliciting comments on the proposed expansion. With regard to the adequacy of the data, TTB notes two points. First, the Two Rock Ranch is located in the southern portion of the proposed expansion, and TTB believes that this is highly relevant to the issue of whether the expansion area has a climate that is similar to that of the existing Russian River Valley viticultural area to the north. Second, the petitioner submitted three years of data from the Two Rock Ranch, and TTB believes that these data are sufficient, noting that the climate data supporting the 2005 expansion of the Russian River Valley viticultural area was derived from only a single year and did not engender any negative public comments regarding the adequacy of these

data. TTB also notes that, although some commenters have questioned the adequacy of the data in the present case, none of those opposing comments included actual data that contradict the data supplied by the petitioner.

With regard to comments referring to the “Sonoma County Climate Zones” map, TTB notes that several commenters submitted copies of this map with additional lines indicating the current boundary of the Russian River Valley viticultural area as well as the petitioned-for expansion area. First, given that the northern portion of the proposed expansion area is identified on the maps as being within the coastal cool climate, this information augments the specific temperature data concerning the more southern portion of the proposed expansion area submitted by the petitioner, and the information further supports the conclusion that the specific data submitted by the petitioner are adequate. Second, TTB notes that, in the case of the 2005 expansion, inclusion of that expansion area in the Russian River Valley viticultural area was not dependent on all of the expansion area being within the coastal cool climate zone as delineated on the “Sonoma County Climate Zones” map, as shown by the fact that a southeastern portion of the 2005 expansion area is identified on the map as having a marine climate.

Finally, from a historical perspective, T.D. ATF–159 describes the fog intrusions in the Russian River Valley viticultural area as yielding growing temperatures that are normally (Winkler) Region I or cooler, thus distinguishing the Russian River Valley from the warmer neighboring valleys such as Dry Creek Valley, Alexander Valley, and Sonoma Valley. Accordingly, in the establishment

of the Russian River Valley viticultural area, the focus was on identifying a climate that was cooler than surrounding areas, so temperatures lower than those associated with Region I are not inconsistent with the intent of that rulemaking.

Fog

Although there does not seem to be any dispute that the petitioned-for expansion area is affected by fog, some opposing commenters suggest that the fog in the expansion area is marine fog that is much heavier and colder than the coastal fog in the existing Russian River Valley viticultural area. Despite the commenters' assertion that the different fog creates a different climate, no data were submitted to show that there is a distinction in this regard between the existing Russian River Valley viticultural area and the proposed expansion area. Moreover, neither T.D. ATF-159 nor T.D. TTB-32 noted any distinction between the Russian River Valley viticultural area and areas outside the boundary of the viticultural area based on type of fog.

Wind

TTB notes that wind was not a geographical feature relied upon to establish the existing Russian River Valley viticultural area. Nevertheless, TTB reviewed the information submitted by opposing commenters concerning high winds within the petitioned-for expansion area. No adequate data were submitted that would enable TTB to determine the extent of the wind variation between the existing viticultural area and the petitioned-for expansion area, if

any, or to determine whether there is a significant and unique effect on viticulture caused by wind within the petitioned-for expansion area.

Vegetation and Harvest Dates

TTB recognizes that variations in vegetation and harvest dates from one area to another can result from several factors, including differences in temperature and/or fog. However, it would be inappropriate for TTB to give weight to statements regarding the effect of temperature and/or fog in this regard in the absence of actual data that support those statements.

The Proposed Expansion of the Northern Sonoma Viticultural Area

As noted above, most commenters addressed only the petitioned-for expansion of the Russian River Valley viticultural area, and only a few commenters specifically addressed the proposed expansion of the Northern Sonoma viticultural area. The several commenters who specifically opposed the proposed expansion of the Northern Sonoma viticultural area contend that the Northern Sonoma viticultural area should be limited to “northern” Sonoma, and that northern Sonoma does not include the proposed expansion area, which is located only ten miles from Marin County. Accordingly, those commenters argue that the proposed expansion is too far south to be part of the Northern Sonoma viticultural area.

In contrast, in his comment supporting the proposed expansion of the Northern Sonoma viticultural area, Patrick Shabram (comment 16) states that the Russian River watershed is a defining feature for northern Sonoma, so the proposed expansion area should be considered part of northern Sonoma

because it is part of the Russian River watershed. In addition, some commenters supported the proposed expansion of the Northern Sonoma viticultural area on the ground that the entire Russian River Valley viticultural area had been part of the Northern Sonoma viticultural area prior to the 2005 expansion, so the Northern Sonoma viticultural area should be expanded to once again include the entire Russian River Valley viticultural area, including the 2005 expansion area as well as the current proposed expansion area.

TTB agrees with the supporting commenters that the Northern Sonoma viticultural area should be expanded as proposed to ensure that the entire Russian River Valley viticultural area is once again fully contained within the Northern Sonoma viticultural area, as had been the case prior to the 2005 expansion of the Russian River Valley viticultural area.

Request for a Public Hearing

TTB is not granting RRVBIC's request for a public hearing. The Bureau has determined that a hearing is not necessary because the public record as described above provides sufficient basis for a decision.

TTB Determination

TTB concludes that the evidence submitted by the petitioner, and the rulemaking record as discussed above, support the approval of the proposed expansion of the Russian River Valley viticultural area. TTB also concludes that, for the reasons stated above and in Notice No. 90, the Northern Sonoma viticultural area should be expanded to include the entire Russian River Valley viticultural area.

Boundary Description

See the narrative boundary description of the expanded Russian River Valley and Northern Sonoma viticultural areas in the regulatory text at the end of this document. In this final rule, TTB altered some of the language in the written boundary descriptions published as part of Notice No. 90. TTB made these alterations in the written boundary description language for clarity and consistency with the existing written boundary descriptions for the Russian River Valley and Northern Sonoma viticultural areas. These alterations do not change the location of the expanded Russian River Valley or Northern Sonoma viticultural area boundaries as proposed in Notice No. 90.

Maps

The maps for determining the boundaries of the viticultural areas are listed below in the regulatory text.

Impact on Current Wine Labels

The expansions of the Russian River Valley and Northern Sonoma viticultural areas do not affect currently approved wine labels. The approval of these expansions will allow additional vintners to use both “Russian River Valley” and “Northern Sonoma” as appellations of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be eligible to use as an appellation of origin a viticultural area name or other viticulturally significant term specified in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area

represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

This rule was drafted by the Regulations and Rulings Division.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Section 9.66 is amended:

a. In paragraph (b), by removing the word “and” at the end of paragraph (b)(9), by removing the word “, and” at the end of paragraph (b)(10) and adding, in its place, a semicolon, by removing the period at the end of paragraph (b)(11) and adding, in its place, a semicolon followed by the word “and”, and by adding a new paragraph (b)(12); and

b. In paragraph (c), by revising paragraphs (c)(15) through (c)(19), by redesignating paragraphs (c)(20) through (c)(34) as paragraphs (c)(26) through (c)(40), and by adding new paragraphs (c)(20) through (c)(25).

The additions and revision read as follows:

§ 9.66 Russian River Valley.

* * * *

(b) * * *

(12) Cotati Quadrangle, California—Sonoma Co., scale 1:24 000, 1954, photorevised 1980.

(c) * * *

(15) Proceed southeast 0.5 mile, crossing over the end of an unnamed, unimproved dirt road to an unnamed 524-foot elevation peak, T6N, R8W, on the Two Rock map.

(16) Proceed southeast 0.75 mile in a straight line to the intersection of an unnamed unimproved dirt road (leading to four barn-like structures) and an unnamed medium-duty road (known locally as Roblar Road), T6N, R8W, on the Two Rock map.

(17) Proceed south 0.5 mile to an unnamed 678-foot elevation peak just slightly north of the intersection of T5N and T6N, R8W, on the Two Rock map.

(18) Proceed east-southeast 0.8 mile to an unnamed peak with a 599-foot elevation, T5N, R8W, on the Two Rock map.

(19) Proceed east-southeast 0.7 mile to an unnamed peak with a 604-foot elevation, T5N, R8W, on the Two Rock map.

(20) Proceed east-southeast 0.9 mile to the intersection of a short, unnamed light-duty road leading past a group of barn-like structures and a medium duty road known locally as Meacham Road, and cross on to the Cotati map T5N, R8W.

(21) Proceed north-northeast 0.75 mile to the intersection of Meacham and Stony Point Roads, T5N, R8W, on the Cotati map.

(22) Proceed southeast 1.1 miles along Stony Point Road to the point where the 200-foot elevation contour line intersects Stony Point Road, T5N, R8W, on the Cotati map.

(23) Proceed north-northeast 0.5 mile to the point where an unnamed intermittent stream intersects U.S. 101, T5N, R8W, on the Cotati map.

(24) Proceed north 4.25 miles along U.S. 101 to the point where Santa Rosa Avenue exits U.S. 101 (approximately 0.5 mile north of the Wilfred Avenue overpass) T6N, R8W, on the Cotati map.

(25) Proceed north 1.1 miles along Santa Rosa Avenue to its intersection with Todd Road, crossing on to the Santa Rosa map, T6N, R8W, on the Santa Rosa map.

* * * * *

3. Section 9.70 is amended:

a. By revising paragraph (b); and

b. In paragraph (c), by revising the introductory text and paragraphs (c)(1) through (c)(5), by redesignating paragraphs (c)(6) through (c)(26) as paragraphs (c)(23) through (c)(43), and by adding new paragraphs (c)(6) through (c)(22).

The revisions and addition read as follows:

§ 9.70 Northern Sonoma.

* * * * *

(b) Approved Maps. The nine United States Geological Survey maps used to determine the boundary of the Northern Sonoma viticultural area are titled:

(1) Sonoma County, California, scale 1:100 000, 1970;

(2) Asti Quadrangle, California, scale 1:24 000, 1959, photorevised 1978;

(3) Jintown Quadrangle, California—Sonoma County; scale 1:24 000, 1955, photorevised 1975;

(4) Camp Meeker Quadrangle, California—Sonoma Co., scale 1:24 000, 1954, photorevised 1971;

(5) Valley Ford Quadrangle, California, scale 1:24 000, 1954, photorevised 1971;

(6) Two Rock Quadrangle, California, scale 1:24 000, 1954, photorevised 1971;

(7) Cotati Quadrangle, California—Sonoma Co., scale 1:24 000, 1954, photorevised 1980;

(8) Santa Rosa Quadrangle, California—Sonoma Co., scale 1:24 000, 1954, photorevised 1980; and

(9) Mark West Springs Quadrangle, California, scale 1:24 000, 1993.

(c) Boundary. The Northern Sonoma viticultural area is located in Sonoma County, California. The boundary description includes (in parentheses) the local names of roads that are not identified by name on the map.

(1) The beginning point is on the Sonoma County, map in the town of Monte Rio at the intersection of the Russian River and a secondary highway (Bohemian Highway);

(2) The boundary follows this secondary highway (Bohemian Highway), southeasterly parallel to Dutch Bill Creek, through the towns of Camp Meeker, Occidental, and Freestone, and then northeasterly to its intersection with an

unnamed secondary highway designated as State Highway 12 (Bodega Road) at BM 214, as shown on the Valley Ford map.

(3) The boundary follows Bodega Road northeasterly 0.9 miles on the Valley Ford map; then onto the Camp Meeker map to its intersection, at BM 486, with Jonive Road to the north and an unnamed light duty road to the south (Barnett Valley Road), Township 6 North, Range 9 West, on the Camp Meeker map.

(4) The boundary follows Barnett Valley Road south 2.2 miles, then east crossing over the Valley Ford map and onto the Two Rock map, to Barnett Valley Road's intersection with Burnside Road, section 17, Township 6 North, Range 9 West.

(5) The boundary follows Burnside Road southeast 3.3 miles to Burnside Road's intersection with an unnamed medium duty road at BM 375, Township 6 North, Range 9 West.

(6) The boundary follows a straight line southeast 0.6 mile to an unnamed 610-foot elevation peak, 1.5 miles southwest of Canfield School, Township 6 North, Range 9 West.

(7) The boundary follows a straight line east-southeast 0.75 mile to an unnamed 641-foot elevation peak 1.4 miles south-southwest of Canfield School, Township 6 North, Range 9 West.

(8) The boundary follows a straight line northeast 0.85 mile to its intersection with an unnamed intermittent stream and Canfield Road; then continues on the straight line northeast 0.3 mile to the line's intersection with the

common Ranges 8 and 9 line, just west of an unnamed unimproved dirt road, Township 6 North.

(9) The boundary follows a straight line southeast 0.5 mile, crossing over the end of an unnamed, unimproved dirt road to an unnamed 524-foot elevation peak, Township 6 North, Range 8 West.

(10) The boundary follows a straight line southeast 0.75 mile to the intersection of an unnamed unimproved dirt road (leading to four barn-like structures) and an unnamed medium-duty road (Roblar Road), Township 6 North, Range 8 West.

(11) The boundary follows a straight line south 0.5 mile to an unnamed 678-foot elevation peak, Township 6 North, Range 8 West.

(12) The boundary follows a straight line east-southeast 0.8 mile to an unnamed peak with a 599-foot elevation, Township 5 North, Range 8 West.

(13) The boundary follows a straight line east-southeast 0.7 mile to an unnamed peak with a 604-foot elevation, Township 5 North, Range 8 West.

(14) The boundary follows a straight line east-southeast 0.9 mile, onto the Cotati map, to the intersection of a short, unnamed light-duty road leading past a group of barn-like structures and Meacham Road, Township 5 North, Range 8 West.

(15) The boundary follows Meacham Road north-northeast 0.75 mile to Meacham Road's intersection with Stony Point Road, Township 5 North, Range 8 West.

(16) The boundary follows Stony Point Road southeast 1.1 miles to the point where the 200-foot elevation contour line intersects Stony Point Road, Township 5 North, Range 8 West.

(17) The boundary follows a straight line north-northeast 0.5 mile to the point where an unnamed intermittent stream intersects U.S. 101, Township 5 North, Range 8 West.

(18) The boundary follows U.S. Route 101 north 4.25 miles to the point where Santa Rosa Avenue exits U.S. Route 101 to the east (approximately 0.5 mile north of the Wilfred Avenue overpass) Township 6 North, Range 8 West.

(19) The boundary follows Santa Rosa Avenue north 1.1 miles to its intersection with Todd Road, crossing on to the Santa Rosa map, Township 6 North, Range 8 West.

(20) The boundary follows Santa Rosa Avenue generally north 5.8 miles, eventually becoming Mendocino Avenue, to Santa Rosa Avenue's intersection with an unnamed secondary road (Bicentennial Way), 0.3 mile north-northwest of BM 161 on Mendocino Avenue, section 11, Township 7 North, Range 8 West.

(21) The boundary follows a straight line north 2.5 miles crossing over the 906-foot elevation peak in section 35, T8N, R8W, crossing onto the Mark West Springs map, to the line's intersection with Mark West Springs Road and the meandering 280-foot elevation line in section 26, Township 6 North, Range 8 West.

(22) The boundary follows the unnamed secondary highway, Mark West Springs Road, on the Sonoma County map, generally north and east, eventually turning into Porter Road and then to Petrified Forest Road, passing BM 545, the town of Mark West Springs, BM 495, and the Petrified Forest area, to Petrified Forest Road's intersection with the Sonoma County-Napa County line.

* * * * *

Signed: April 14, 2011.

John J. Manfreda,

Administrator.

Approved: July 21, 2011.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

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